



January 12, 2001

Mr. Jesús Toscano, Jr.
Administrative Assistant City Attorney
City of Dallas
Office of the City Attorney - City Hall
1500 Marilla
Dallas, Texas 75201

OR2001-0134

Dear Mr. Toscano:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 143158.

The City of Dallas (the "city") received three written requests for the official comprehensive Dallas 2012 Olympics bid document. You contend that the requested information is excepted from disclosure pursuant to section 552.101 of the Government Code in conjunction with section 8 of article 5190.14, V.T.C.S., as well as section 552.104 of the Government Code.

We note at the outset that you have informed this office that a city employee previously released an earlier version of the bid document to one of the current requestors. You explain that that release was not authorized by the city, and that the released version of the bid document was subsequently returned to the city. Generally, information that has already been publicly disclosed may not be withheld in the future. Open Records Decision Nos. 436 (1986), 435 (1986). On the other hand, the Public Information Act does not preclude a governmental body from invoking exceptions to protect from further public disclosure information which has been released on a limited basis through no official action and against the wishes and policy of the governmental body. Open Records Decision Nos. 387, 376 (1983). Only if a governmental body fails to make any attempt to retrieve illegally transferred information will it be presumed to have voluntarily disclosed the information. Open Records Decision No. 387 (1983). Furthermore, a governmental body may not waive

the protection of section 552.101 of the Government Code through a release of confidential information to the public. Open Records Decision Nos. 412 (1984), 400 (1983). Accordingly, this office will consider your section 552.101 arguments.

Article 5190.14, V.T.C.S., governs, among other things, certain procedures regarding the selection of a Texas city for the site of the 2012 Olympic Games. Section 8 of article 5190.14 provides in pertinent part:

(a) A local organizing committee and its governing body are subject to Chapters 551 and 552, Government Code. For purposes of those chapters, the governing body of a local organizing committee is considered a governmental body as defined by those chapters. For purposes of Chapter 552, Government Code, the records and information of a local organizing committee are considered public records and public information.

(b) A final bid that is submitted by a local organizing committee to a site selection organization, or a draft of that bid, is excepted from required public disclosure under Chapter 552, Government Code, until the applicable site selection organization selects the site for the applicable games.

With respect to the selection of a site for the 2012 Olympic Games, you explain that

Dallas 2012 is the organization approved by the City of Dallas to prepare and submit a bid to the United States Olympic Committee ("USOC") for the selection of Dallas as the city to represent the United States in the bid to the International Olympic Committee ("IOC") for the Olympic Games in the year 2012. . . . With respect to the 2012 Olympic Games, the USOC and IOC are the applicable site selection organizations. The USOC is not scheduled to select the United States candidate city until 2002, and the IOC will not select the site for the 2012 Olympic Games until 2005.

After reviewing your representations and the records at issue, we conclude that the bid proposal you have submitted to our office is made confidential under section 8(b) of article 5190.14, V.T.C.S. Accordingly, the city must withhold the bid proposal in its entirety pursuant to section 552.101 of the Government Code, notwithstanding any prior release of this document to the public.¹

¹Because we resolve your request under section 552.101 of the Government Code, we need not address the applicability of section 552.104.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for

contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink that reads "Michael A. Pearle". The signature is written in a cursive, flowing style.

Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/RWP/seg

Ref: ID# 143158

Encl. Submitted documents

cc: Mr. Michael H. Saul
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